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In the Supreme Court

OF THE

United States

OCTOBER TERM, 1943

No. 605

EVELYN FLYNN,
Petitioner,

vs.

CHESTER BOWLES, Price Administrator,
Respondent.

On Petition for a Writ of Certiorari to the United States Emergency Court of Appeals.

PETITION FOR A REHEARING.

EVELYN FLYNN,
530 Larkin Street, San Francisco, California,
Petitioner in Propria Persona.

Parker Printing Co., San Francisco, California

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To the Honorable Harlan Fiske Stone, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Comes now the petitioner Evelyn Flynn and prays that this Honorable Court rehear and reconsider her petition herein which was denied by the Court on February 28, 1944.

The grounds for rehearing upon which the petitioner bases her prayer are as follows:

1. This Honorable Court was misinformed by respondent in the brief for the respondent in opposition as to the facts of the case and the regulations and law governing the procedure involved. These matters are set forth in petitioner's reply brief which did not reach the Court until March 1, 1944, two days after certiorari was denied.

2. Petitioner was precluded or prevented from filing her reply brief in time for the consideration of this Honorable Court prior to February 28, 1944 by reason of the failure or neglect of respondent to promptly serve upon petitioner a copy of the aforesaid brief for the respondent in opposition. Service of said brief for respondent was not made upon petitioner until Friday, February 18, 1944. On Monday, February 21, 1944, petitioner's reply brief was placed in the hands of the printer in San Francisco. On February 25, 1944 (a holiday intervening) the brief was completed and 40 copies thereof were placed in the mail, registered and special delivery, addressed to the clerk of this Honorable Court. Thus petitioner had forty copies of her printed reply brief in the mail, special delivery, within seven days of the time she received the brief for respondent and in said seven days were included a Sunday and a holiday. The reply brief did not reach the Court until two days after the decision was rendered. This was not due to any neglect or delay upon the part of the petitioner.

3. In petitioner's brief in support of petition for writ of certiorari, filed with her original petition

herein, on page 26 thereof, petitioner specifically requested

> "time and permission to file a reply brief in the event this petition is opposed by the government or by respondent herein, * * *"

This privilege is further provided for by Rule 27 of this Honorable Court, but petitioner received no notice of hearing of the case, and considering the distance separating petitioner from the Court, had no opportunity to file her reply brief prior to the hearing.

4. The denial of certiorari herein is contrary to law, in that it deprives this petitioner of a right of judicial review vested in her by the Emergency Price Control Act of 1942 (Sections 203, 204) and guaranteed to her by the Fifth Amendment to the Constitution of the United States. (See pages 17, 18 of Petitioner's Reply Brief.)

5. If the exclusive jurisdiction provisions of Section 204(d) of the Emergency Price Control Act of 1942 are valid, this petitioner has no other method or right of judicial review of the taking of her property by respondent without compensation, and in such case this Honorable Court should not permit the United States Emergency Court of Appeals to refuse to review the case on its merits. It is respectfully submitted that it is the duty of this Honorable Court in the case at bar to either declare these exclusive jurisdictional provisions invalid as applied to petitioner or to enforce them in favor of petitioner to

the end that petitioner may have her rights determined.

In order that this Honorable Court may have a better understanding of the facts, and of practices of respondent, petitioner sets forth in the appendix attached hereto and made a part hereof, excerpts of proceedings before the Office of Price Administration relating hereto. These excerpts show:

(a) That petitioner has been denied all administrative relief by respondent; that she is denied possession of her property and denied knowledge of what charges, if any, she may make for the use of same in possession of tenants. (Appendix p. i.)

(b) That control and disposition of petitioner's property has been placed by respondent in the hands of an official who seeks either for himself or for respondent to purchase the real estate "at the best figure possible". (Appendix p. i.) That the only alternative offered the owner to selling his property to said official at his price was to abandon and give up the property to the holder of the mortgage, possession being denied the owner by respondent. (Appendix p. iii.)

(c) That where owners have been deprived of any rent for their property for long periods of time (9 months in the case cited) and then seek in the local courts to have their rights adjudicated or to collect from the tenant the amount agreed upon, respondent resorts to intimidation and obtains the dis-

missal of the actions by threatening the principals, assignees and attorneys with criminal prosecution unless said actions be dismissed. (Appendix p. v.)

In no other field of price control is the seller required to give four improved units for the price he previously charged for three inferior ones.

In no other field of price control is a person compelled under penalty of fine and imprisonment to continue in business at heavy and continual losses.

As shown by the graphs at the end of the appendix, rents have been frozen at their worst relative position since statistics have been kept by the U. S. Bureau of Labor covering a period of over 29 years. OPA has frozen San Francisco rents at a point less than 5% above the 1914 level, while in the meantime wages have more than tripled and general prices have nearly doubled. Farm prices which stood well above the 1914 level in 1939 have doubled since then as a result of "conscious price policy" on the part of OPA. (Third Quarterly Report of the Office of Price Administration to Congress for the period ended October 31, 1942, p. 22.)

That this inequity has been imposed upon the greater part of the nation's landlords is shown by the graph at the close of the appendix attached hereto, in which the rents in San Francisco are compared with the rents in thirty-four large cities of the United States.

Petitioner prays that in the consideration hereof by the Court, that the Court accept and consider petitioner's reply brief and cause same to be filed herein, forty copies thereof being in possession of the clerk of the Court and service having been made upon respondent.

Dated, San Francisco, California,
March 21, 1944.

Respectfully submitted,
EVELYN FLYNN,
Petitioner in Propria Persona.

State of California,
City and County of San Francisco.—ss.

Evelyn Flynn, being first duly sworn, certifies, that she is the petitioner in the foregoing petition, that she is acting as her own counsel herein and that she presents this petition for rehearing in good faith and not for delay.

EVELYN FLYNN.

Subscribed and sworn to before me this 21st day of March, 1944.

(Seal) ELLA COOK KELLY,
Notary Public in and for the City and County of San Francisco, State of California.

My commission expires December 23, 1944.

(Appendix Follows.)